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GOVERNMENT OF SIKKIM

DEPARTMENT OF FORESTS, ENVIRONMENT AND WILDLIFE

No. 299/F **Date: 10/5/06**

NOTIFICATION

In exercise of the powers conferred by clause (c) of sub-section (2) of section 83 of the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988 (6 of 1988), the State Government hereby makes the following rules, namely:——

Short title, extent and Commencement

1. (1) These rules may be called the Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2006.

(2) They shall extend to the whole of Sikkim.

(3) They shall come into force on the date of their publication in the Official Gazette..

Definitions

2. In these rules, unless the context otherwise requires;——

(a) "Assistant Conservator of Forests" means an officer of that designation within whose territorial jurisdiction the private land or other non-forest land falls;

(b) "Block Officer" means an officer of that designation within whose territorial jurisdiction the private land or other non-forest land falls;

(c) "breast height" means the height of a tree at 1.37 metres from its base;

(d) "bustiwalla rate" means the concessional rate of royalty leviable from villagers, as notified in the schedule of rates of the Government;

(e) "commercial" means for sale to any individual, association, group, business establishment, hostel or agency of government or otherwise;

(f) "Conservator of Forests" means an officer of that designation within whose territorial jurisdiction the private land or other non-forest land falls;

(g) "Divisional Forest Officer" means an officer of that designation within whose territorial jurisdiction the private land or other non-forest land falls;

(h) "ecological value" means necessary for the existence of other forms of plant or animal life;

(i) "girth" means the circumference of the tree trunk or stem taken horizontally;

(j) "Government" means the State Government of Sikkim;

(k) "jhora" means a gully which may or may not have running water;

(l) "marking order" means an order for making a hammer impression at the base of the tree approved to be felled by authority;

(m) "non-forest land" includes all lands not being private lands whether Government or otherwise including that of institutions and not recorded as forests in record of rights of the Government as per the cadastral survey of 1952;

(n) "non-commercial" means for use other than commercial;

(o) "non-forestry project" means any project whether Government, institutional or otherwise that involves construction over the natural surface of the land such as for buildings, roads, bridges, culverts, causeways, dams but does not include private houses;

(p) "private land" includes any land not recorded as forests and standing in the name of any person or persons in record of rights of the Government as per the cadastral survey of 1952;

(q) "Range Officer" means an officer of that designation within whose territorial jurisdiction the private land or other non-forest land falls;

(r) "species" means type of tree;

(s) "tree" means a plant mentioned in the schedule of rates of the Government.

Trees not to be felled. 3. No permission to fell a tree on any private or other non-forest land shall be granted except as hereinafter provided.

Persons to apply for tree felling. 4. Any person, hereinafter called the applicant, who wishes to fell a tree or trees in his private or other non-forest land shall apply to the Block Officer, in Form 1 in duplicate.
Provided that not more than one application in Form 1 shall be made for a continuous plot of land in a year.

Block Officer to examine the tree. 5. The Block Officer shall, after receiving the application as provided for in rule 4 shall affix his signature, seal and date on the duplicate copy of the application in Form 1 and return it to the applicant and then verify the tree that is sought to be felled.

Conditions for felling tree 6. The trees in private or other non-forest land shall be felled only if the following conditions are fulfilled, namely:-

(a) The tree or trees to be removed should not constitute more than 33% of the trees standing within one continuous patch of the private land unless an approved management plan provides for felling of trees in excess of this percentage.

(b) The tree should not be standing within 20 feet from the edge of a gully, stream bank or edge of a precipitous slope.

(c) The tree should not be standing on a landslide, landslip, eroded surface, bank of a jhora or a stabilized landslide falling within private land or other non-forest land.

(d) The tree should not be standing on a general slope of more than 70 degrees to the horizontal.

(e) The tree should not belong to a category of species reserved by the Government under provisions of any forest laws or rules nor should the tree be a mother tree being capable of producing good seeds as determined by forest officers.

(f) The tree should not have high ecological value such as a rare growth of epiphytes.
Provided that the Government may pay such compensation as it deems adequate to reserve any such tree that in its opinion needs to be preserved on account of its ecological value.

(g) The private land must be recorded as being under private ownership in the Government cadastral survey record of rights of 1952.
Provided that conditions (a) to (g) shall not apply to dead trees which may be allowed to be felled without restriction.

Action to be taken by Block Officer.

7. If the Block Officer is satisfied that all the conditions mentioned in rule 6 are fulfilled he shall, —

(i) issue a marking order in the form prescribed in the Sikkim Transit of Timber and Other Forest Produce Rules, 1999 if not more than two trees for firewood purpose have been applied for, duly forwarding a copy to the Divisional Forest Officer, or

(ii) forward the application in Form 1with his comments to the Range Officer if the number of trees applied for is more than two or for commercial purpose or during the course of extraction of firewood for tree or trees granted as provided in clause (i) it was found that some part of tree given for firewood is fit to be converted to timber.

Provided that the Block Officer may issue a marking order with "FOR FIREWOOD ONLY" written on it for any tree that is knotted, crooked and unfit for timber if it is to be used for firewood in a village by relaxing the conditions of rule 6 or not more than two trees for firewood for cardamom drying if conditions of rule 6 are fulfilled for all of them.

Action to be taken by Forest Range Officer and above.

8. When the application is forwarded to the Range Officer under clause(ii) of rule 7, the marking order may be issued as follows,—

(i) if not more than two trees are applied for firewood purpose or not more than two trees are applied for non-commercial purpose or any number of trees for cardamom drying, by the Range Officer if he is satisfied that all the conditions of rule 6 are fulfilled; or

(ii) if not more than four trees are applied for firewood purpose or not more than four trees are applied for non-commercial purpose or not more than two trees are applied for commercial purpose, by the Assistant Conservator of Forests if he is satisfied that all the conditions of rule 6 are fulfilled; or

(iii) if not more than four trees are applied for firewood purpose or not more than four trees are applied for non-commercial purpose or not more than eight trees are applied for commercial purpose, by the Divisional Forest Officer if he is satisfied that all the conditions of rule 6 are fulfilled; or

(iv) for any number of trees for any purpose, by the Divisional Forest Officer after obtaining the approval of the Conservator of Forests who shall first satisfy himself that all the conditions of rule 6 are fulfilled.

Provided that if more than ten trees are sought to be removed for any non-forestry project, the application in Form 1 shall be forwarded to the Principal Chief Conservator of Forests by the Conservator of Forests, through his superior officers, who may

(a) after due consideration of the proposal for removal of the trees, approve it and direct the Divisional Forest Officer to issue a marking order; or

(b) reject it for reasons to be recorded by him in writing and send it back to the Conservator of Forests through his sub-ordinate officers.

Provided further that if more than five trees are sought to be removed, the Assistant Conservator of Forests; and if more than ten trees are sought to be removed, the Divisional Forest Officer; and if more than fifty trees are sought to be removed, the Conservator of Forests shall personally visit the site before forwarding his comments in Form 1 or approving the marking order as the case may be.

Copy of Marking Order to be forwarded to Divisional Forest Officer.

9. The officer who issues a marking order to an applicant shall do so after collecting the duplicate copy of Form 1, on which the Block Officer had affixed his sign, seal and date as provided for in rule 5 and forward a copy of the marking

order and a copy of the management plan where applicable to the Divisional Forest Officer for carrying out the purposes of rules 12 to 15.

Block or Range Officer to mark trees. 10. After a marking order is issued to the applicant, the Block or Range Officer shall mark the tree or trees and authorize their felling.

Applicant to attach a management plan. 11. If the applicant wishes to fell more than five trees from his private land he shall attach with Form 1 a management plan stating how he plans to use the land where he intends to fell the trees, in the coming ten years.

Compensation to be charged for deviation from plan. 12. If the applicant deviates from the management plan stated by him under rule 11, he shall be liable to pay a compensation of five times the market value of the trees that were felled as determined by the Divisional Forest Officer.

Applicant to plant saplings. 13. The applicant shall, when a marking order is granted to him on his application, under the aforesaid rules, for every tree felled, plant ten saplings of trees in his private land.

Provided that if trees are approved to be removed, as provided under the first proviso to rule 8, for any non-forestry project, which is to be undertaken by any department, institution or agency, whether government or otherwise, then it shall transfer funds for carrying out the requirement of planting saplings to the Forest, Environment & Wild Life Management Department of the Government on the basis of an estimate to be drawn up by that department, before the marking order is issued to it. The Forest, Environment & Wild Life Management Department shall then plant the saplings on Government land.

Number of saplings with species to be registered. 14. The number of saplings planted with species shall be registered by the Block Officer who shall forward a list of all such applicants with the number and species planted by each at the end of the monsoon season to the Divisional Forest Officer through his superior officers.

Divisional Forest Officer to tally names. 15. The Divisional Forest Officer shall tally the names in the list supplied to him under rule 14 with the record of marking orders issued in Private and other non-forest lands.

Officers to inspect saplings. 16. The Range Officers shall inspect 50% of the Private and other non-forest lands where saplings have been planted by applicants and the Divisional Forest Officer 25%, each year for five years and a penalty imposed if the saplings are found to have suffered mortality; the compensation shall be decided by the Divisional Forest Officer.

Procedure for felling of tree for construction. 17. When an applicant wishes to remove a tree or trees within private land or other non-forest land to make way for construction of private housing he shall apply for the same to the Block Officer in Form 1. The Block Officer shall after inspecting the tree or trees forward the application to the Divisional Forest Officer through his superior officers who shall issue a marking order for felling the tree or trees on payment by the applicant of a compensation equivalent to two times of the bustiwalla rate of the timber volume contained in the tree or trees and the provisions of the rules 11 to 15 shall apply in relation to such application, as they apply in relation to an application disposed of under rules 7 and 8.

Assessment of trees posing threat. 18. A tree may be assessed to pose a threat to lives or property if its girth is more than 2 feet at breast height and it is likely to damage lives and property if it falls provided it fulfills one or more of the following conditions, namely:-

(i) when at least 50 % of its roots are exposed due to soil erosion,

(ii) when the lean of the tree is less than 60 degrees to a horizontal plane passing through its base,

(iii)when the tree stands on soil which is under mass movement.

(iv) when the tree is decayed, dead or drying at the base .

Procedure for felling of trees posing threat.

19. When an applicant wishes to remove a tree within private land that is assessed as provided for in rule 18 he shall apply for the same to the Block or Range Officer in Form 1. The Block or Range Officer shall, after inspecting the tree, forward the application to the Divisional Forest Officer if the condition mentioned in rule 18 are met with, who shall if he is satisfied with the report, issue a marking order for felling the tree and the provisions of the rules 11 to 15 shall apply in relation to such application, as they apply in relation to an application disposed of under rules 7 and 8. The same procedure shall be followed for more than one tree.

Lopping of trees to be allowed.

20. No restriction shall be placed on lopping of trees to encourage growth of cultivated crops on private land.

Penalty for violation of these rules

21. Felling of a tree or trees in violation of the provisions of these rules shall be treated as a forest offence and the same shall be compounded as provided for in section 74 of the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988.

Repeal and saving.

22. (1) On and from the date of commencement of these rules, the Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2001 shall cease to be in force.

(2) Notwithstanding such repeal, anything done or any action taken under the rule so repealed, shall be deemed to have been done or taken under the corresponding provision of these rules.

Government to make amendments.

23. The Government if it deems it expedient and necessary so to do, may, by notification, to be published in the Official Gazette, make amendments to the provisions of these rules.

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